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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,140	11/25/2003	Akira Takahashi	Q78533	4319

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,140	<b>Applicant(s)</b> TAKAHASHI, AKIRA	
	<b>Examiner</b> Michael J. Kyle	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claim terminology “allowing means” is not found in the specification.

### ***Claim Objections***

Claim 1 is objected to because of the phrase “to slide the lever” in line 12 of the claim. The claim has previously described a lever that is “swingable” (line 3) and is made to “swing” (line 9). It is unclear if the lever can both swing and slide or only swing. As best understood, the lever only swings between the two positions, and the term “slide” is actually referring to the swinging motion, or sliding along an arc.

Claim 1 is objected to because the limitation “the allowing portion” (lines 15-16) lacks antecedent basis. It is also unclear if the allowing portion is the same as the allowing means, or if the allowing portion is a feature or element of the allowing means.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wegner (U.S. Patent No. 6,082,158). Wegner discloses an actuator comprising a rotor (30), a lever (not numbered, shown in figure 13, portion supporting 37, connected to 36 and 38 via 39) swingable between first and second positions, and an engagement mechanism comprising a protrusion (37) and a guide mechanism (32, 33, 34) that makes the lever swing between the first and second position, and allows movement of the lever without turning the rotor. Wegner further discloses the guide mechanism to include a contact portion (32) that comes in contact with the protrusion (37), a guide portion (33) that guides the protrusion to the contact portion, and an allowing means (34) that allows, when the rotor stops rotating, movement of the protrusion without turning the rotor, wherein the rotor always stops at the allowing portion regardless of whether the lever is at the first position or the second position. Examiner notes that an invention should be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). Presently, the claimed "allowing portion" is claimed in terms of its function (i.e. what it allows to occur) rather than its structure. Because Wegner discloses a feature that is structurally identical to the claimed allowing portion, it is considered to be able to perform the same function.
4. With respect to claim 3, Wegner discloses the guide mechanism to include a first slide guide portion (non circular portion of 33) to slide the protrusion to the guide portion during rotation of the rotor in a first direction, and a second slide guide portion (circular portion of along the inner periphery of 33), that comes in contact with the protrusion to slide the protrusion to the movement support portion during rotation of the rotor in a second direction.
5. With respect to claims 4 and 5, Wegner discloses the contact portion (32) to have first and second contact portions (projecting portion of 32) extending in different directions. The first

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contact portion slides the lever to the second position during rotation of the rotor in a first direction. The second contact portion slides the lever to the first position during rotation of the rotor in the second direction.

6. With respect to claim 6, Wegner discloses the lever to be connected to a locking lever (36, 38) that switches between locked and unlocked positions of a door locking device.

### ***Response to Arguments***

7. Applicant's arguments filed May 15, 2006, have been fully considered but they are not persuasive.

8. With respect to applicant's argument regarding the identification of the lever in the Wegner patent, examiner notes that the lever on which element 37 is supported, and pivots about axis 39, as clearly shown in figure 13, is considered to meet the limitations of the claimed lever.

9. With respect to applicant's argument that there is no teaching that there would be any movement without operation of the motor, examiner notes that claim does not require any movement without operation of the motor, but rather requires only that movement is allowed. In Wegner, there is no device that positively restrains or constricts the protrusion that would prevent movement of the protrusion or lever when the motor is not operated.

10. With respect to applicant's argument that there is no reason to have the protrusion 37 move independent of the motor being operated and rotor being turned, examiner notes that the allowing portion 34 of Wegner meets all of the claimed structural limitations of applicant's allowing portion, and thus meets the limitations of the claim. In Wegner, the surface, or

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allowing portion 34 does not restrain the protrusion from moving. Thus, this portion allows movement even when the rotor does not rotate.

11. Applicant argues that Wegner fails to show the protrusion to always stop at the allowing portion regardless of whether the lever is in the first or second position. Examiner respectfully disagrees and notes the entire recessed surface 34 of Wegner is considered to be the allowing portion. The protrusion always stops at this portion.

12. Applicant argues that the claimed structure clearly relates to the allowing member 35 having an arc track R. Examiner notes that an arc track is not claimed.

13. Applicant respectfully requests that a means-plus-function interpretation be applied to the claimed terminology “means for” (in reference to the “allowing means for...”). Examiner notes that the terminology “allowing means” does not appear to be supported in the specification. However, addition of this language would not appear to constitute new matter.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Michael J. Kyle", with a long horizontal flourish extending to the right.

Michael J. Kyle

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